

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: UEMORI=3

In re Application of:)	Confirmation No.: 4978
)	
Takashi UEMORI et al)	Art Unit: 1637
)	
Appln. No.: 10/582,345)	Examiner: Heather CALAMITA
PCT/JP04/18137)	
)	
Filing Date: December 6, 2004)	July 10, 2008
371(c) Date: June 9, 2006)	
)	
For: METHOD OF AMPLIFYING)	
NUCLEIC ACID)	

REPLY TO RESTRICTION REQUIREMENT

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Amendment
Randolph Building, 401 Dulany Street
Alexandria, VA 22314

Sir:

Applicants are in receipt of the restriction
requirement Office Action mailed, June 11, 2008, and
applicants reply below.

Acknowledgement by the PTO of the receipt of
applicants' papers filed under Section 119 is noted.

Restriction has been required among what the PTO deems as being three (3) separate inventions. As applicants must make an election even when the requirement is traversed, applicants hereby respectfully and provisionally elect Group I, presently claims 1-5 and 8, with traverse and without prejudice. Claims 1-5 and 8 read on the elected subject matter.

The PTO states that unity of invention is destroyed by the Notomi publication, but applicants do not see that this is correct. Claims 6, 7 and 9 (the claims of not elected Groups II and III) depend from and incorporate the subject matter of claim 1, whereby all three (3) groups share the same corresponding special technical features as called for in claim 1, and therefore there is unity of invention under PCT Rules 13.1 and 13.2.

Even if claim 1 were not patentable over the prior art, narrower patentable subject matter would form the same or corresponding special technical feature or features among the three (3) Groups.

Accordingly, the requirement should be withdrawn and all the claims should be examined on the merits. Such are respectfully requested.

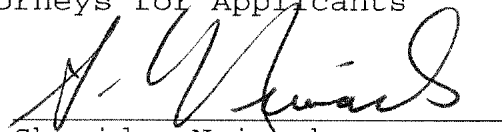
Applicants respectfully add that even if there were an absence of unity of invention, the examiner should be guided by the second paragraph of MPEP 803 which requires a search and examination of entire application if it would not constitute a serious burden to do so. In the present case, a complete search of the elected Group I would require a search also of at least the Group II claims and probably claim 9 as well. Once such a search has been conducted, a complete examination would not constitute a serious burden.

Applicants now respectfully await the results of a first examination on the merits.

Respectfully submitted,

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